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Message Text

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62
ORIGIN SS-25

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DRAFTED BY EA/K:EHURWITZ;CHG
APPROVED BY EA/K - MR HURWITZ
L/EA - MS VERVILLE
L/M - MR MALMBORG
S/S - MR. ORTIZ
DESIRED DISTRIBUTION
EA AND L ONLY
---------- 040899
P 282304Z SEP 76
FM SECSTATE WASHDC
TO AMEMBASSY SEOUL PRIORITY

C O N F I D E N T I A L STATE 241304

STADIS//////////////////////////////////
EXDIS - EA AND L ONLY

E.O. 11652: GDS

TAGS: KS, US

SUBJECT: SUBPOENA OF ROK EMBASSY BANK RECORDS

1. FEDERAL DISTRICT COURT IN D.C. HAS SUBPOENAED RECORDS OF ROK EMBASSY ACCOUNT WITH RIGGS NATIONAL BANK IN CONNECTION WITH INVESTIGATION INTO ALLEGATIONS IMPROPER PAYMENTS TO U.S. CITIZENS. DEPARTMENT LEGAL ADVISOR HAS DETERMINED THAT THERE ARE NO LEGAL BARRIERS TO SUCH SUBPOENA, AND ROK EMBASSY WAS SO INFORMED SEPTEMBER 27.

2. ROK OFFICIALS HERE UPSET BY SUBPOENA AND FACT THAT DEPARTMENT NOT ATTEMPTING TO INTERVENE. POLCOUNS YU TOLD EA/K DIRECTOR SEPTEMBER 27 THAT SUBPOENA CONTRAVENES NORMAL DIPLOMATIC PRACTICE AND WOULD BE VIEWED AS AN "UNFRIENDLY ACT" FROM WHICH "CONSEQUENCES" WOULD ENSUE.
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IN MEETING SEPTEMBER 28 WITH ASSISTANT LEGAL ADVISER FOR

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MANAGEMENT, YU PRESENTED ROK ARGUMENT THAT BANK RECORDS PROTECTED BY DIPLOMATIC IMMUNITY UNDER THE TERMS OF THE VIENNA CONVENTION. YU SAID THE KOREANS HAD RETAINED THE WASHINGTON LAW FIRM OF ROGERS AND WELLS AND INTENDS TO DELIVER A NOTE TO THE DEPARTMENT CONTAINING THEIR LEGAL

AND POLICY ARGUMENTS. ASSISTANT LEGAL ADVISER SAID WE WOULD CERTAINLY CONSIDER ROK ARGUMENTS AND COMMUNICATE THEM TO JUSTICE.

3. IN RESPONSE TO ROK EMBASSY INQUIRIES AS TO REASON FOR SUBPOENA, WE HAVE, AFTER CONSULTING WITH JUSTICE, TOLD THEM THAT SUBPOENA DOES NOT RELATE TO NORMAL FUNCTIONS OF EMBASSY BUT RESULTS FROM INVESTIGATION OF ALLEGATIONS THAT IMPROPER PAYMENTS HAD BEEN MADE TO AMERICAN CITIZENS.

4. IF QUESTIONED ABOUT VALIDITY OF SUBPOENA, EMBASSY SHOULD SAY THAT THIS QUESTION BEING DECIDED IN WASH-INGTON. IF QUERIED ON REASON FOR SUBPOENA, EMBASSY SHOULD REPLY ALONG LINES PARA 3 ABOVE.

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